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8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. **2010-540**

14 **CATHERINE ANN FULLER a.k.a.**
15 **CATHERINE ANN KNIGHT**
10691 Eglantine Court
San Diego, CA 92131

ACCUSATION

16 **Registered Nurse License No. 481842**

17 Respondent.

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19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
26 Nurse License Number 481842 to Catherine Ann Fuller aka Catherine Ann Knight (Respondent).
27 The Registered Nurse License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on May 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

.....
(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
.....

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

.....
(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section,
5 in which event the record of the conviction is conclusive evidence thereof.

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7
8 8. Section 482 of the Code states:

9 Each board under the provisions of this code shall develop criteria to
10 evaluate the rehabilitation of a person when:

11 (a) Considering the denial of a license by the board under Section 480; or

12 (b) Considering suspension or revocation of a license under Section 490.

13 Each board shall take into account all competent evidence of
14 rehabilitation furnished by the applicant or licensee.

15 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 10. Section 493 of the Code states:

20 Notwithstanding any other provision of law, in a proceeding conducted
21 by a board within the department pursuant to law to deny an application for a
22 license or to suspend or revoke a license or otherwise take disciplinary action
23 against a person who holds a license, upon the ground that the applicant or the
24 licensee has been convicted of a crime substantially related to the qualifications,
25 functions, and duties of the licensee in question, the record of conviction of the
26 crime shall be conclusive evidence of the fact that the conviction occurred, but
27 only of that fact, and the board may inquire into the circumstances surrounding
28 the commission of the crime in order to fix the degree of discipline or to
determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
and 'registration.'

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the
qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a

manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

.....
(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(December 31, 2008, Criminal Conviction for DUI Arrest on July 19, 2008)

14. Respondent is subject to disciplinary action under section 2761(f) and 490 for her criminal conviction for driving under the influence of alcohol, which is substantially related to her qualifications, functions and duties as a registered nurse. The circumstances are as follows:

1 a. On or about December 31, 2008, in the Superior Court of California, County of San
2 Diego, in the case entitled, *People of the State of California v. Catherine Ann Fuller*, Case No.
3 M063120, Respondent pled no contest to violating Vehicle Code section 23152(b) (driving under
4 the influence of alcohol), a misdemeanor.

5 b. On or about December 31, 2008, Respondent was sentenced to five years summary
6 probation, 30 day suspended drivers license, 90 day restricted drivers license, 5 days community
7 service, complete First Offenders Alcohol Program, complete a Mothers Against Drunk Driving
8 Impact Panel, and fines.

9 c. The circumstances that led to the conviction are that on July 19, 2008, Respondent
10 drank alcohol at a restaurant in downtown San Diego during a celebration with friends. As
11 Respondent was driving home from the restaurant, she approached a traffic light as it turned
12 green and drove her car into the back of two Pedi-Cabs that were in driving in front of her, side-
13 by-side. Respondent caused minor personal injury to the Pedi-Cab drivers and caused minor
14 property damage to the Pedi-Cabs. A blood alcohol test conducted approximately one hour after
15 the collision indicated that Respondent's blood-alcohol content was 0.17%.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct: December 31, 2008, Criminal Conviction for DUI)**

18 15. Respondent is subject to disciplinary action for unprofessional conduct under section
19 2761(a), as defined by section 2762 (c), for her criminal conviction for driving under the
20 influence of alcohol. The circumstances regarding the conviction are described in paragraph 14
21 above, and incorporated herein by reference.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct- Dangerous Use of Alcohol)**

24 16. Respondent is subject to disciplinary action for unprofessional conduct under section
25 2761 (a), as defined by section 2761(b), in that Respondent consumed alcohol in a manner
26 dangerous or injurious to self or others on July 19, 2008, when she drove her car while under the
27 influence of alcohol and thereby caused minor personal injury and minor property damage. The
28 circumstances are described in paragraph 14 above, and incorporated herein by reference.

1 PRAYER

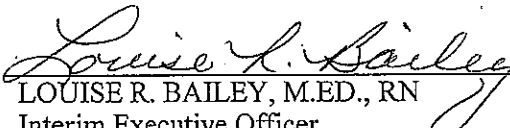
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 481842, issued to
5 Catherine Ann Fuller aka Catherine Ann Knight

6 2. Ordering Catherine Ann Fuller aka Catherine Ann Knight to pay the Board of
7 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
8 pursuant to Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 4/23/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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